

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

OCP, S.A.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-10-4332
	§	
COLORADO OTR, LP, HARRIS-	§	
McCLAIN ENTERPRISES, LLC, and	§	
JASON BRADLEY HARRIS,	§	
	§	
Defendants.	§	

MEMORANDUM AND ORDER ON ENTRY OF FINAL JUDGMENT

On the 17th day of June, 2013, this case came on for trial by Jury and, after the parties presented their evidence and rested, and made their closing arguments to the Jury, the Court submitted the case to the Jury; and, after due deliberation, the Jury on June 19, 2013, returned its unanimous Verdict, which the Court accepted and ordered filed.

Plaintiff OCP, S.A., which received favorable answers on all questions submitted to the Jury, on July 5, 2013, filed its election to recover its remedies under its breach of contract claim. (Document No. 105 at 2.) Accordingly, the Court disregards the Jury's answers to Questions Nos. 5, 6, and 7, and will grant Final Judgment on the Jury's answers to Questions Nos. 1, 2, 3, 8, and 9.

After the Jury returned its Verdict and Plaintiff made its election of remedies, Plaintiff OCP, S.A. and Defendants Colorado OTR, LP, Harris-McClain Enterprises, LLC, and Jason Bradley Harris mutually agreed and stipulated, without any waiver by Defendants of their rights (i) to challenge the Jury's findings, (ii) to argue in support of the Jury's findings, (iii) to appeal any judgment entered by this Court, or (iv) to contest Plaintiff's entitlement to recover attorneys' fees, that Plaintiff incurred reasonable and necessary attorneys' fees for legal services rendered on behalf of Plaintiff solely in the prosecution of this case, inclusive of taxable court costs incurred by Plaintiff, in the sum of \$1,250,000.00, all as more specifically set forth in the Stipulation Between Plaintiff and Defendants Concerning Attorneys' Fees and Costs (Document No. 106) filed July 12, 2013. Moreover, if an unsuccessful appeal is undertaken by Defendant(s) from Final Judgment entered in this lawsuit, Plaintiff will be entitled to recover from Defendants additional reasonable and necessary attorneys' fees for appellate legal services in the sum of \$175,000.00. Id.

Plaintiff OCP, S.A. and Defendants Colorado OTR, Harris-McClain Enterprises, LLC, and Jason Bradley Harris mutually agreed and stipulated that the total amount of prejudgment interest accrued and to be awarded to Plaintiff OCP based on the Jury's Verdict is \$334,602.74 as of August 9, 2013, and that prejudgment

interest continues to accrue in the amount of \$315.07 per day after August 9, 2013 through the day preceding the date that Final Judgment is signed, all as more specifically set forth in the Stipulation Between Plaintiff and Defendants Concerning Pre- and Post-Judgment Interest (Document No. 108) filed August 9, 2013. Based on the foregoing Stipulation, the Court calculates that the total sum of prejudgment interest to be awarded to Plaintiff OCP, S.A. to the date hereof is \$338,698.65.

The Jury's Verdict of \$2,300,000.00 in damages for breach of contract, plus reasonable and necessary attorneys' fees--including court costs--in the amount of \$1,250,000.00, plus prejudgment interest in the amount of \$338,698.65, totals \$3,888,698.65, for which Plaintiff OCP, S.A. is entitled to have judgment against Defendants Colorado OTR, LP, Harris-McClain Enterprises, LLC, and Jason Bradley Harris, jointly and severally. In addition, if Defendants, or any of them, unsuccessfully appeal from the Final Judgment to the United States Court of Appeals for the Fifth Circuit, Plaintiff OCP, S.A. shall have and recover from Defendants, jointly and severally, an additional sum of \$175,000.00, for reasonable and necessary attorneys' fees for legal services incurred in successfully defending the Final Judgment.

The Court will separately sign a Final Judgment awarding the foregoing recovery to Plaintiff OCP, S.A.

The Clerk will enter this Order, providing a correct copy to all parties of record.

SIGNED at Houston, Texas, on this 23rd day of August, 2013.


EWING WERLEIN, JR.
UNITED STATES DISTRICT JUDGE